

## Message Text

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ORIGIN SS-25

INFO OCT-01 ISO-00 SSO-00 /026 R

DRAFTED BY NEA/ARP:RWAHERNE:CEJ

APPROVED BY NEA:SSOBER

L/NEA - MR. HUFFMAN

AID/NESA/ME - MR. RICHARDSON

S/S:O A.OTTO

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O 120239Z MAR 76

FM SECSTATE WASHDC

TO AMEMBASSY JIDDA IMMEDIATE

C O N F I D E N T I A L STATE 060473

STADIS//////////

EXDIS

E.O. 11652: GDS

TAGS: MASS, SA, US

SUBJECT: COE ASSISTANCE TO PUBLIC WORKS MINISTRY

REF: (A) JIDDA 1730 (B) JIDDA 1385

1. BELIEVE THERE CONTINUES TO BE SOME MISUNDERSTANDING AS TO PURPOSE AND EFFECT OF 1965 ENGINEER ASSISTANCE AGREEMENT ON THE ONE HAND, AND US DOMESTIC LEGISLATION ON THE OTHER. 1965 AGREEMENT DESCRIBES TERMS AND CONDITIONS UNDER WHICH COE WILL OPERATE IN SAUDI ARABIA ON MILITARY CONSTRUCTION PROJECTS. IT DOES NOT (NOR CAN ANY EXECUTIVE AGREEMENT) PROVIDE DOMESTIC (U.S.) LEGAL AUTHORITY TO COE TO FUNCTION IN SAUDI ARABIA. SUCH AUTHORITY IN 1965 WAS PROVIDED BY SECTION OF FOREIGN ASSISTANCE ACT WHICH HAS NOW BEEN SUPPLANTED BY SECTION IN FMSA. AS THEORETICAL MATTER, COE COULD FUNCTION WITHOUT 1965 AGREEMENT USING TERMS AND CONDITIONS SPECIFIED IN DD FORM 1513 FOR SALES OF DEFENSE SERVICES UNDER FMSA BUT WOULD NOT ENJOY  
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PRIVILEGES IMMUNITIES AND OTHER USEFUL RIGHTS PROVIDED BY

1965 AGREEMENT.

2. IN ANY CASE, NONE OF THIS IS DIRECTLY RELEVANT TO THE PROVISION OF ASSISTANCE TO THE PUBLIC WORKS MINISTRY. EXCHANGE OF NOTES PROPOSED STATE 22746 IS NOT STRICTLY

SPEAKING A QTE MODIFICATION UNQTE OF THE 1965 AGREEMENT. IF EXCHANGE OF NOTES IS CONCLUDED, IT WOULD CONSTITUTE A NEW AND SUPPLEMENTARY AGREEMENT, RELATED TO THE 1965 AGREEMENT ONLY IN THE FACT THAT IT INCORPORATES CERTAIN TERMS FROM THE LATTER BY REFERENCE. THE 1965 AGREEMENT WOULD REMAIN FULLY IN FORCE, UNAMENDED AND UNMODIFIED.

3. MOREOVER, BECAUSE FOREIGN MILITARY SALES ACT PROVIDES FOR SALE OF DEFENSE ARTICLES AND SERVICES, AND ASSISTANCE TO PUBLIC WORKS MINISTRY IS NOT IN THAT CATEGORY, LEGAL AUTHORITY OF FMS ACT IS INAPPROPRIATE BASIS FOR SUCH ASSISTANCE. WE CONCEIVE OF SECTION 607 OF FOREIGN ASSISTANCE ACT AS APPROPRIATE LEGAL AUTHORITY FOR EXCHANGE OF NOTES PROPOSED STATE 22746. THAT SECTION, AS YOU KNOW, AUTHORIZES USG AGENCIES TO FURNISH SERVICES AND COMMODITIES ON A REIMBURSABLE BASIS TO, INTER ALIA, FRIENDLY COUNTRIES, WHEN THE PRESIDENT DETERMINES IT TO BE CONSISTENT WITH THE PURPOSES OF THE ACT TO DO SO. SUCH DETERMINATIONS ARE WITHIN AID'S AUTHORITY (AS RESULT OF SUCCESSIVE DELEGATIONS OF AUTHORITY), AND AID HAS MADE DETERMINATION THAT CORPS ASSISTANCE TO PUBLIC WORKS MINISTRY MAY BE CARRIED OUT UNDER 607 AUTHORITY. COMBINATION OF THAT SECTION 607 DETERMINATION AND THE EXCHANGE OF NOTES YOU HAVE NOW PROPOSED TO THE SAG WILL PROVIDE ADEQUATE BASIS FOR COE ASSISTANCE TO CIVIL SECTOR PROJECTS.

4. WITH REGARD TO MOU DISCUSSED PARA 3, REF B: WE HAVE DISCUSSED INFORMALLY WITH DOD POSSIBILITY OF EXCHANGE OF LETTERS BETWEEN MINISTER AND AMBASSADOR WHICH WOULD INCLUDE LANGUAGE CORPS FEELS IT NEEDS. WE HOPE TO HAVE INSTRUCTIONS FORTHCOMING SOON ON THIS POINT.

5. IN VIEW FOREGOING, WE AGREE WITH APPROACH TO PRINCE  
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MITAB OUTLINED LAST PARA, REF A. KISSINGER

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## Message Attributes

**Automatic Decaptioning:** Z  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
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